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## BOOK REVIEWS.

**LECTURES ON LEGAL HISTORY AND MISCELLANEOUS ESSAYS.** By James Barr Ames. With a Memoir. Cambridge: Harvard University Press. 1913. pp. viii, 553.

The essays contained in this volume represent all the important writings of Professor Ames, with the exception of two articles on the Negotiable Instruments Law which have been separately published; and with the further exception, of course, of the great mass of valuable annotations scattered through his case-books.

As one of Mr. Ames's friends has written, his work as an essayist was "only the by-product of his real work, chips from his workshop;" and great as was the labor which went into the lectures and essays in this volume, the statement is doubtless true. Learning and teaching were pursuits more vital and necessary to Mr. Ames than authorship, and the form of authorship to which he gave more time than to any other was that of annotating his numerous case-books. Yet the value of these essays is very great. About one-half of the volume is devoted to lectures on legal history. These were originally delivered about twenty-five years ago. Many of them were subsequently elaborated and published in the HARVARD LAW REVIEW, and several were reprinted in the "Select Essays on Anglo-American Legal History." But about one-third of the matter in the lectures has never before been printed, and even if all had previously appeared in magazines the lectures well deserve publication in a single volume. They give the best outline yet made of the common law and equity of England, aside from the law of crimes and of real property, in the important and interesting centuries when the foundations of modern English legal doctrine were welded into a connected and coherent whole.

Most writers on the law of remote periods fall into one of two faults: either they become mere chroniclers of rules and decisions which for lack of adequate understanding or explanation seem barbarous and illogical, or they substitute imagination for fact and write of what may have been supposed to exist, rather than of what actually did exist. Nobody could have made a more thorough study of his sources than Mr. Ames, nor have used them more effectively; and yet, while giving the actual decisions on which his conclusions are based, he is able from the scattered fragments which these decisions furnish to reconstruct the theories and rules behind them, and show their relations to modern law. Much that is in these lectures is both an original and a final statement.

The remainder of the essays composing the volume have all been published previously, and it is a work of supererogation to attempt to characterize them. They are already known wherever the English common law is studied. They show to those who never knew Mr. Ames his fertility in legal theory, as well as his learning and industry in supporting his theories with analogies from all branches of the law, and with decisions from the earliest to the latest times.

The Memoir, which precedes the Essays, is skillfully put together from a number of tributes which appeared shortly after Mr. Ames's death. It gives a statement of the facts of his life, and also gives some indication of the impression he made upon those around him.

Great labor has evidently gone into the editing of the volume. The preparation of the text of the lectures, involving, as it did, a collation of numerous sets of manuscript notes, must have taken an enormous deal of time. The result achieved is excellent, for those of the lectures hitherto unpublished do not

read like mere notes, but like completed essays. The tables of sources consulted, of cases, and of other authorities cited, and the index, are all full and excellent.

A debt of gratitude to the editor, who, though his name does not appear in the volume, is well known to be Professor Beale, should not be left unmentioned. His work has been done with scrupulous care and fidelity. S. W.

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A GENERAL SURVEY OF EVENTS, SOURCES, PERSONS, AND MOVEMENTS IN  
CONTINENTAL LEGAL HISTORY. By Various European Authors. Boston:  
Little, Brown, and Company. 1912. pp. liii, 754.

This volume, the first of the "Continental Legal History Series" published under the auspices of the Association of American Law Schools, seeks to render available for the English reader the results of half a century of critical study of the history of European law. Nothing of the sort has before been attempted within the limits of a single book or even a single series, and this volume "has therefore been constructed by fitting together chapters separately written, each by a specialist in his own field," in the effort "to weave them into a connected and inclusive story, giving to each country the proper proportions, tracing in each the principal elements of legal life common to all, and exhibiting their variances from the highway of development." Certain of the chapters have been specially written for the purpose by eminent scholars, others have been condensed and adapted from recent standard treatises. The introductory account of the period before 1000 and the succeeding chapter on Italy, taken from the *Storia di diritto italiano* of Calisse and revised by the author in Professor Wigmore's translation, are particularly successful. The treatment is scholarly, the proportion is good, and, if any one book is to determine the direction of approach to the general subject, it was probably wise to choose an Italian treatise. The portion devoted to France, chiefly from Brissaud, is much less satisfactory; there are too many names and titles for the present purpose, and the material needs bringing up to date. The same holds true of the all too brief pages on canon law taken from Brissaud, and the Scandinavian chapter is likewise too bibliographical in character. The German portion uses excellent material,—Brunner, Stintzing, Stobbe, Schröder, Siegel, Zoepfl,—but the result is necessarily uneven and often scrappy. The translation here is apt to be clumsy and is sometimes misleading, as in dragging in hundreds, shires, and earldoms on p. 314, or rendering *geistliche Stifte*, as "chapter-houses" (p. 325). The Netherlands, Switzerland, and Spain have the advantage of excellent accounts specially prepared for the purpose by van Hamel, Huber, and Altamira respectively. The Spanish chapters are relatively full and will prove of special interest to the American reader. The plan of the work does not include eastern Europe nor, what is a more serious omission, European colonies. Any full treatment of colonial law would, of course, have been out of the question, but a large part of the significance of certain legal systems lies in the extent of their influence, and the reader would at least like to know something of the spread of the law of France and Spain to the New World. The necessary space could have been advantageously taken from the bibliographies, long and not always discriminating lists of titles which can be of no use to those ignorant of foreign languages and which are quite as accessible to scholars in the original manuals. Criticisms of this sort should not, however, be taken as disparaging the usefulness of the work and the serious and careful labor which it has involved. Those who still doubt the utility of such knowledge of continental law as this series seeks to impart should read the introduction by Justice Holmes and the preface of Professor Wigmore, the chairman of the editorial committee. The project shows generous recognition of the fruit-